

96. If any live stock of any kind or description whatsoever shall break into any person's enclosure, the same being of the height and sufficiency prescribed in the preceding sections, the owner shall be liable to make good all such damages to the owners of such enclosures as shall be awarded by two or more judicious persons, who may view the same under oath made before some justice of the peace in said county, the said damages to be recovered in the manner prescribed by law for the recovery of small debts; *Provided*, upon the trial before any justice of the peace for damages at the instance of either party, the justice of the peace shall issue a *subpoena* for such witnesses as either plaintiff or defendant may require.

97. Whenever joint fences have been or may be established in said county for the mutual benefit of different owners or possessors of adjoining lands, each party shall keep in good repair his just proportion thereof in the manner following: all post and rail or plank fences shall be at least four feet and a half high; all stone fences shall be at least four feet high; and all worm or other fences shall be at least five feet high; the height in every case to be computed from the ground or base of any embankment upon which said fence may be placed.

98. If either of the parties so making or keeping a joint fence, shall not comply with the provisions of the preceding section, and shall refuse or delay to make or repair the said fence within twenty days after notice in writing shall be given to him or his agent, overseer or tenant, upon proof thereof before a justice of the peace, the said justice may, under his hand and seal, authorize the party aggrieved by such refusal or delay, to make or repair the said fence as above required, and for so doing he shall be reimbursed all costs and reasonable expenses necessarily incurred, to be recovered from the party so delaying or refusing in the same manner as debts of like amount are recoverable.

99. If joint fences are not made and kept in repair according to the provisions of the 97th section of this article, the party aggrieved, instead of pursuing the remedy prescribed in the preceding section, may discontinue said fence by giving three months' notice in writing to the party refusing or delaying to make or repair the same, or his tenant, overseer or agent; in all other cases (unless by mutual consent) twelve months' notice shall be required to discontinue any joint fence.